HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 7563 of 2007

DATED: 13-04-2007

Between:

Smt K.Bhagya Laxmi

…Petitioner

and

State Bank of Hyderabad, Stressed Assets Management Branch, Ramkote, Hyderabad and others

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 7563 of 2007

ORAL ORDER:

The writ petition is misconceived.

The case of the petitioner:

(a) The petitioner was a partner in M/s Shakthi Plastic Industry, Kamareddy, Nizamabad with 20% share. The said partnership firm obtained loans from A.P.S.F.C Nizamabad and Vysya Bank, Kamareddy. These loan accounts were closed. (b) the Firm is not functioning since 1999; the petitioner became an inactive partner since 1996; the only Managing partners V.Bhoopathi Reddy and V.Sudarshan are responsible for the Bank loans and financial transactions; (c) the 2nd respondent issued a notice dated 12-3-2003 under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') alleging that it had extended credit facility to M/s Vijetha Polymers Pvt. Ltd., Kamareddy; (d) the outstanding loan was Rs.54,83,046/- as on 29-8-2002 and that M/s Shakthi Plastic Industries, Kamareddy stood as a guarantor by depositing title deeds in respect of plot No.31 of an extent of 2430 Sq. yards in Sy.No.790, IDA, Kamareddy and calling upon the petitioner to discharge the outstanding loans;

(e) the petitioner by a reply dated 18-6-2003 denied the liability and stated that she did not sign the guarantee; (f) without responding to these objections, the 2nd respondent issued a sale notice dated 21-6-

2004. Earlier on 11-10-2003 possession of the property was obtained under Section 13 (4) of the Act. Thereafter the 1st respondent issued another notice dated 17-2-2007 demanding repayment of the outstanding loan amount extended to M/s Vijetha Polymers Limited and thereafter issued the impugned auction notification dated 27-2-2007 proposing auction of the property of M/s Shakthi Plastic Industries.

The petitioner states that her objections to the notice under Section 13(2) of the Act lodged on 21-7-2004 have not been responded to as required under Section 13 (3A) of the Act. There is nothing in the pleadings to show that the petitioner has availed the appellate remedy against the action of the respondents in taking possession of the land under Section 13 (4) of the Act. The petitioner has a right to prefer an appeal against any proceedings issued under Section 13 (4) of the Act, *qua* Section 17 of the Act.

In view of the availability of an alternative efficacious and statutorily provided remedy, the petitioner ought not to seek remedy under Article 226 of the Constitution.

Accordingly, granting liberty to the petitioner to pursue the available remedies under the provisions of the Act, the writ petition is dismissed. There shall be no order as to costs.

GODA RAGHURAM, J

13-04-2007
GRR